United Nations A/61/923

General Assembly

Distr.: General
24 May 2007

Original: English

Sixty-first session
Agenda items 129 and 130

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/61/824). During its consideration of the report, the Advisory Committee met with the Deputy Prosecutor of the International Criminal Tribunal for Rwanda, as well as with other representatives of the Tribunals and of the Secretary-General, who provided additional information and clarifications.

2. The report of the Secretary-General was submitted pursuant to General Assembly resolutions 61/241 and 61/242, in which the Assembly endorsed the recommendations of the Advisory Committee (see A/61/591). In its previous report (A/61/591, para. 8), the Committee had recommended that the Secretary-General be requested to prepare a comprehensive proposal with the procedure to be applied, the decisions required of the Assembly and a clearer projection of the numbers of staff required to be retained in order to achieve the stated objective, taking into account

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the latest updated time frame of the completion strategy. The Committee notes that the methodology used and the cost estimates in the report under consideration are the same as those presented previously by the Secretary-General in his report (A/61/522). It also notes that the report of the Secretary-General has not responded to the request for a more precise determination of the expertise, functions and posts that would be required during the foreseeable phases of the completion strategy (A/61/591, para. 6). However, in that connection, the Committee was informed that the Tribunals had undertaken a rigorous review of the anticipated workload in the biennium 2008-2009, on the basis of the actual number of remaining cases to be tried and the staffing complement needed for each case, in order to determine the requirements needed to support the trials and appeals. Following the completion of first instance trials, a consequential reduction in the number of posts is envisaged for the biennium 2008-2009 (see para. 6 below).

3. The Advisory Committee recalls that the Tribunals had put in place a number of measures to retain staff, including: (a) extension of the length of contracts of all staff from one year to two years; (b) establishment of an internal G-to-P examination; (c) reduction of required post incumbency from two years to one year before staff can apply for posts at a higher level; (d) recruitment of qualified spouses; and (e) expansion of training options offered. The Committee had been informed that those measures, which aimed to improve job security, allay staff anxieties and provide opportunities for staff development, had had a positive effect on staff morale.

4. The Secretary-General indicates that the retention incentive would apply only to staff who are required to remain with the Tribunals until their services are no longer needed and their posts are abolished. The criteria for determining staff that would not qualify for the retention incentive are listed in paragraph 11 of the report of the Secretary-General (A/61/824). It is estimated that 40 per cent of Professional staff in both Tribunals and 50 per cent and 70 per cent of General Service staff in the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, respectively, would qualify for the retention incentive.

5. In tables 1 and 2 of the annex to the report of the Secretary-General (A/61/824), it is indicated that the retention incentive would lead to substantial savings in terms of lost productivity and costs of rotation of staff. The Secretary-General's estimates are based on the assumption of an annual turnover rate of 20 per cent for the four-year period from 2007 to 2010 under the status quo, which would be reduced by half, that is, to 10 per cent, with the introduction of a retention incentive (see A/61/824, annex, paras. 6-8). The Advisory Committee is aware that, by its very nature, such an assumption is inherently difficult to prove, since the actual rotation rates will depend on decisions taken by staff with respect to their personal situation and the opportunities presented to them in the future. Furthermore, the financial implications of a divergence from the estimate of 10 per cent could be considerable. However, the Committee also notes that the costs of rotation and resulting productivity loss may be high.

6. Upon enquiry, the Advisory Committee was informed that, by and large, all functions, both at the Professional and General Service levels, were deemed to require experience and knowledge of the working methods of the Tribunals. Rather than identifying specific posts, functions or expertise required for the implementation of the completion strategy, the approach taken was to reduce the

total numbers of posts as the different phases of the completion strategy are to be concluded. Thus, for the biennium 2008-2009, a substantial percentage reduction of the number of posts is envisaged in the areas and functions related to trial activity, as the Tribunals move from the trials at first instance to the appeals phase (see A/61/824, paras. 12-16). Some of the resources released from abolished posts would be redeployed to strengthen appellate support work in the Office of the Prosecutor and the Registry. The remaining posts would be those considered essential. In that regard, the Committee was assured that the Tribunals had conducted a rigorous review of the anticipated workload in the biennium 2008-2009 on the basis of the actual number of remaining cases and the staff needed to support each case (see para. 2 above).

7. As noted in paragraph 13 of the report of the Secretary-General (A/61/824), an update on the progress made towards the implementation of the completion strategies will be submitted by the Presidents and Prosecutors of the Tribunals to the Security Council in the second quarter of 2007. At present, it is anticipated that, at the International Criminal Tribunal for Rwanda, trials on first instance will be completed at the end of 2008 and appeals at the end of 2009. As for the International Tribunal for the Former Yugoslavia, trials on first instance are expected to be completed sometime during 2009 and appeals at the end of 2010.

8. **The Advisory Committee recognizes the importance of retaining key staff to support the timely implementation of the completion strategy. It also recognizes the special features of the Tribunals, including the fact that a large proportion of their staff perform specialized functions not readily available within the United Nations system. Under the circumstances, the Committee considers the use of a retention incentive, pursuant to the terms of annex III to the Staff Rules, to be an option, inasmuch as it would enable the Tribunals to retain required staff until their posts are abolished. The Committee recommends that consideration be given to increasing the number of years of service required before key staff become eligible for the retention incentive from two to five years of continuous service, until the post is abolished. In the present circumstances, the retention incentive would become effective from the biennium 2008-2009.**

9. **The Advisory Committee further recommends that the administrative arrangements for retention incentives be based on an ad hoc decision of the General Assembly rather than an amendment to the Staff Rules.**